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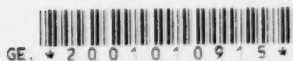
CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

Written statement*/ submitted by the International Federation of Human Rights Leagues, a non-
governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental
organization(s).



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ENG

Introduction

1. The International Federation of Human Rights (FIDH) and its Northern Ireland affiliate, the Committee on the Administration of Justice (CAJ) believe that issues of justice, rights and fairness have been at the heart of the conflict in Northern Ireland. The Good Friday Agreement envisaged new policing and criminal justice arrangements based on respect for human rights and the rule of law. CAJ and FIDH welcomed the commitments to human rights contained in the Good Friday Agreement. However, we have become increasingly concerned at the resistance of the United Kingdom to translating those commitments into legislation and practice. In particular, in relation to policing, the United Kingdom government has proved extremely unwilling to establish effective public accountability mechanisms should police officers commit human rights abuses in the future, or to investigate those which have occurred in the past. We are concerned that this resistance to necessary change in the areas of policing and human rights protection may well undermine the progress, which has been made in the context of the peace process in Northern Ireland.
2. Given the centrality of human rights to the peace process in Northern Ireland, it is vital that the United Kingdom complies with human rights standards by, inter alia, implementing the recommendations of the Special Rapporteur on the Independence of Judges and Lawyers following his reports on Northern Ireland, presented to the Commission in 1998, 1999 and 2000 and the recommendations of the Committee Against Torture in November 1998. Additionally we urge action to remedy a number of outstanding human rights concerns, many of which have been the subject of previous comment by the Human Rights Committee (1991 & 1995), the Committee Against Torture (1991 & 1995), the Commission on Human Rights (1993, 1994, 1996, 1998, 1999 & 2000), the Sub-Commission (1992, 1993, 1994 & 1996), the European Committee for the Prevention of Torture (1994) and have been the cause of several adverse findings against the United Kingdom in the European Court of Human Rights.
3. Regrettably the United Kingdom government has failed to respond adequately to these concerns.

Report of the Special Rapporteur on the Independence of Judges and Lawyers

4. In our written submission to the Commission last year the FIDH and CAJ expressed our concern in relation to the murder of CAJ Executive member and defence lawyer, Rosemary Nelson on 15th March 1999.
5. Concerns in relation to the safety of Rosemary Nelson had been brought to the attention of the United Kingdom government prior to her murder by both CAJ and the Special Rapporteur on the Independence of Judges and Lawyers. When the Special Rapporteur presented his report to the Commission in 1998, he drew particular attention to her case. Although unnamed by the Special Rapporteur, his report describes how Rosemary Nelson had been the "victim of numerous death threats owing to the representation of a client, who had been charged with the murder of two RUC [police] officers." The Special Rapporteur went on to describe how RUC officers had allegedly assaulted Rosemary Nelson and subjected her to sectarian abuse.
6. On 10th August 1998 CAJ wrote to the Minister of Security in Northern Ireland, Mr Adam Ingram enclosing copies of a hand-written threat to Rosemary Nelson's life and a one-page pamphlet threatening a local nationalist leader, which also referred to Rosemary Nelson, his solicitor. The pamphlet included Rosemary Nelson's business address and telephone number. In our letter to the government we reminded them of the Special

Rapporteur's recommendation in relation to the need to protect lawyers who were under threat.

7. On 24th September 1998 we received a response from the government indicating that the documents had been passed to the Chief Constable's office for investigation. The letter indicated that the police would assess the security risk against Mrs Nelson. The police did not contact us nor, insofar as we are aware, did they contact Mrs Nelson. However, on 22nd March 1999, a few days after Rosemary Nelson was killed, detective officers visited CAJ's office seeking the originals of the two documents that CAJ had sent to Minister Ingram. The officers explained that the Royal Ulster Constabulary (RUC) wanted to run forensic tests on the originals. Specifically, the RUC was going to test the documents for fingerprints and for any DNA evidence.
8. It was therefore clear that the RUC had only begun to search for the originals after Ms. Nelson's death. We could not understand why the police had not sought the originals to subject them to forensic examination during the investigation, which presumably followed them receiving the documents the previous summer. The RUC's failure to look for the documents before Ms. Nelson's death raised very serious questions about the efficacy of the initial investigation. It seemed clear that the RUC could have done more to protect Ms. Nelson. Indeed in our view it was possible that those responsible for producing the two documents may have been identified by way of forensic tests if the originals had been obtained prior to Rosemary Nelson's murder. Indeed this must also have been the view of the RUC given that the reason they sought the originals was to determine if there were fingerprints or DNA evidence on them.
9. CAJ and FIDH are concerned that although the government was warned on a number of occasions about threats to Rosemary Nelson's life, it did not provide the necessary protection for her nor did it vigorously investigate the threats against her.
10. CAJ have attempted to obtain an explanation as to what steps were taken by the police in the seven months between their receipt of the threats and Ms Nelson's death. Eighteen months after first raising this issue we have yet to receive an adequate reply from the authorities, either police or governmental. Consequently, we recently lodged a formal complaint with the newly established office of the Police Ombudsman in Northern Ireland in relation to the failure of the police properly to investigate the threats, which were forward to the authorities by CAJ.
11. FIDH and CAJ have also expressed concern at the fact that the murder of leading defence lawyer, Patrick Finucane, in 1989 remains unsolved. Last year in response to demands for the establishment of a public inquiry into the murder, a further police investigation into the murder was launched. This investigation is continuing although, insofar as we are aware no security force member, has yet been charged in connection with the murder.
12. Earlier this year the Prime Minister, Tony Blair, informed CAJ that the United Kingdom would not consider establishing a public inquiry in the Finucane case until the completion of the new police investigation and any subsequent criminal proceedings. CAJ and FIDH are concerned that this effectively precludes the truth about the Finucane murder from being established for at least two years.
13. In April 1998 the Special Rapporteur presented his findings on his visit to Northern Ireland to the United Nations Commission on Human Rights. He said that there should be an independent judicial inquiry into the murder of Patrick Finucane to resolve the outstanding questions of official involvement in his murder. FIDH and CAJ support these conclusions. We do not believe that the renewed criminal investigation will be successful in uncovering the truth about security force involvement in the murder. This belief is

reinforced by the fact that the police officer in charge of the investigation has confirmed that he will not publish his final report but that it will be forwarded to the Chief Constable, and if appropriate the Director of Public Prosecutions. CAJ does not believe that oversight by these two individuals, both of whom have been linked to the controversy surrounding the case, is likely to inspire confidence in the investigation's ability to resolve the issues raised by the Finucane murder.

Conclusion

14. FIDH and CAJ believe that the cornerstone for a peaceful and democratic society must be respect for the rule of law. We believe it is essential, if lasting peace is to be established in Northern Ireland, that the government act immediately on the recommendations of the Special Rapporteur Mr Cumaraswamy. Additionally, the UK government should swiftly implement the recommendations of the Committee Against Torture (1998 and 1995) and those of the Human Rights Committee (1995) by reconstructing the RUC and dismantling the apparatus of emergency laws currently operating in Northern Ireland. Regretfully the United Kingdom government has shown little willingness to implement these recommendations. The emergency laws in Northern Ireland have recently been combined and placed on a permanent footing in one piece of United Kingdom wide legislation, the Terrorism Act. While change is being contemplated in relation to the police, the government has steadfastly resisted placing statutory obligations on the new policing service to protect international human rights standards beyond those limited standards already incorporated into domestic law. We request the Commission to urge the government of the UK to comply immediately with its international human rights obligations in this regard.
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